

Is the Program For Me?

#RR-632

The Dry Cleaner Environmental Response Fund Program

April, 2003

Background

The dry cleaner environmental response fund program (DERF) was developed by the dry cleaning industry to reimburse dry cleaners for their eligible costs for cleaning up dry cleaning solvent discharges to the environment. All active dry cleaners contribute to the DERF fund to ensure that dry cleaning solvent discharges can be addressed without economic catastrophe for an individual dry cleaner involved in a cleanup. The Department of Revenue collects fees for this program and the Department of Natural Resources implements the reimbursement program. S. 292.65, Wis. Stats., contains the statutory language from which the program must operate, and Chapter NR 169, Wi. Adm Code, contains more detailed rule language outlining how the rule is implemented.

What the current statute says:

The statute, s. 292.65, Wis. Stats., says that an **owner or operator** of a dry cleaning facility is eligible for reimbursement if they comply with several provisions of the statute.

An **owner** is defined as:


- A person who owns or has possession or control of **and** who receives or received direct or indirect consideration from the operation of a dry cleaning facility that is licensed, or a dry cleaning facility that has ceased operation (if the dry cleaning facility closed after October 14, 1997, it needed to have had a license prior to closing).
- a subsidiary or parent corporation of the person specified above
- A person who owns the property on which a *licensed* dry cleaning facility is located. Also, a person who owns property on which a licensed facility operated but has subsequently closed is eligible for the program. Subsequent property owners are not eligible once a licensed facility has closed. Licensing requirements began Oct 14, 1997, so a person who owns property on which a facility that closed prior to this date was located are not eligible.

An **operator** is defined as:

- A person who holds the license for a dry cleaning facility
- A subsidiary or parent corporation of the person specified above
- A person who operated a dry cleaning facility that closed prior to October 14, 1997

What does this means to me?


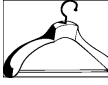
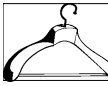

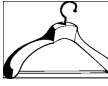

Whether or not you are eligible depends on your unique situation. The following examples may help determine whether you are eligible for this program or not. Remember that there are other components of the DERF program that may affect your eligibility such as compliance with pollution prevention requirements as well as the ch. NR 700 clean up requirements. See our web site (www.dnr.state.wi.us/org/aw/rr) for fact sheets on other aspects of the program, as well as ch. NR 169, Wis. Stats.

Yes	No	Am I eligible?	Explanation
		I've owned and operated a dry cleaning facility for the past 15 years until I retired last year. I licensed the facility in 1997, when licensing became a requirement. The investigation at the gas station across the street has found dry cleaning solvents and they want me to investigate my property.	Since you owned and operated the dry cleaning facility and met the licensing requirements, you are eligible for reimbursement assuming that you follow the other eligibility criteria (i.e. reported the discharge, are following NR 700 cleanup rules, follow the requirements in NR 169, etc.)



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Yes	No	Am I eligible?	Explanation
		I bought a property in 1998 that I want to develop into a bookstore. It used to house a dry cleaning facility, but it went out of business in 1995. The bookstore won't give me a franchise until I conduct an environmental assessment.	This program was not designed for you. You never owned the dry cleaning facility, nor received direct compensation from its operation. The owner or operator of the drycleaner may be eligible for the program, and the program does allow agent agreements whereby one party conducts the investigation and cleanup on behalf of another party. Those agreements, however, need to be in place prior to environmental response actions being taken at the site.
		I own a dry cleaning business consisting of 5 facilities – three have been converted to dry stores and the other two are locations where dry cleaning occurs. The two dry cleaning locations that are active are licensed, and have been since 1997, when the requirements came into effect. I incorporated my business in 1980.	Your corporation owned all 5 facilities when they were operating and currently owns two licensed facilities that continue to operate. As such, your corporation is eligible for this program at any of the five locations. Remember that if your corporation is dissolved, it is no longer eligible for the program.
		I own a strip mall that houses a dry cleaning facility. The dry cleaner is licensed, but is thinking of selling the business. If they sell and I discover a problem later, am I eligible for the fund to cover my cleanup costs?	The statute defines owner as one who owns property on which either an active licensed facility or closed licensed facility is located. Therefore, you would remain eligible whether the facility is open or closed, as long as the facility maintained a valid license from the Department of Revenue when it was operating.
		I owned a dry cleaning facility that closed in 1994, before this program became effective. I sold the property to a developer, who is building an office complex. The developer has informed me that they have discovered perchloroethylene in the soils, and I am responsible for cleaning it up.	Whether you are responsible for cleaning up the contamination is a subject for you to discuss with your attorney. However, assuming the perchloroethylene resulted from drycleaning solvents from your facility, you are eligible for this program as the owner of a dry cleaning facility. You may conduct the investigation and cleanup or you may choose to work with the developer and have them serve as an agent for you in conducting the investigation and cleanup activities. Written agent agreements must be signed prior to costs being incurred.
		My father owned a drycleaning facility until he retired several years ago. The current property owner contacted my father after discovering contamination on the property. They signed an agent agreement for the property owner to conduct the cleanup, and submitted the notification form to the DNR. My father has since passed away and I am now the personal representative of his estate. Will the future cleanup costs be reimbursable from the program?	As the personal representative of your father's estate, you are entitled to continue to act on behalf of your father for actions which he started. If he had not submitted the potential claim notification form to the department, he would not have met the initial program requirements and you would not be able to initiate a cleanup in his behalf. However, since he had submitted that form and initiated response actions, you are able to continue under his eligibility status. Once the estate is settled, however, you no longer would hold that title, and your eligibility would cease unless there was an assignment of that right to a trust.
		The Dept. of Revenue recently notified me that I had not licensed my facility. Since I can't afford the license fee, I decided to close my facility and retire.	The owner or operator of an unlicensed facility is not eligible for this program, but is still responsible for completing a cleanup at this site.

For More Information

To order this and any other publications, or to find out more information about the Remediation and Redevelopment Program, please call our Information Line at 800-367-6076 (long distance in-state) or 608-264-6020 (local or out-of-state); or check out our web site at <http://www.dnr.state.wi.us/org/aw/rr>.

This document contains information about certain state statutes and administrative rules but does not necessarily include all of the details found in the statutes and rules. Readers should consult the actual language of the statutes and rules to answer specific questions. The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240. This publication is available in alternative format upon request. Please call 608-267-3543 for more information.

